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U.S. Department of Justice

United States Attorney Eastern District of New York

JPL/MRG F. #2019R01460 271 Cadman Plaza East Brooklyn, New York 11201

February 2, 2024

By ECF and E-mail

The Honorable Eric N. Vitaliano United States District Judge Eastern District of New York 225 Cadman Plaza East Brooklyn, New York 11201

Re: United States v. Javier Aguilar

Criminal Docket No. 20-390 (ENV)

Dear Judge Vitaliano:

In response to the Court's February 1, 2024, order, the government states that it anticipates calling David Lopez, Esq. at any hearing on foreign law. Mr. Lopez is an expert on the law of Mexico. See ECF Dkt. No. 207-2 (expert report of David Lopez).¹

The government objects to the defense's stated intention to present testimony from Dr. Marianna Mureddu Gilabert. On June 7, 2023, the Court set an expert witness disclosure deadline for the defense of October 2, 2023, which deadline the defense consented to. ECF Minute Entry for Proceedings June 7, 2023; Transcript of Proceedings Held on June 7, 2023 at 17:6-17, attached hereto as Exhibit A. The defense did not give any notice of its intention to call Dr. Gilabert or any other foreign law expert until nearly four months after the deadline had passed, well after trial was underway. Nor did the defense even note its disagreement with David Lopez's export report before trial, much less make any effort to raise the novel theories of Mexican law that it now advances. In contrast, the government's expert disclosures were made on May 11, 2023.

Furthermore, according to the defense's letter, Dr. Gilabert's testimony would need to be presented through an interpreter, which would present complications given the importance of terms of art in statutory analysis. In addition, Dr. Gilabert appears to be available only via video conference on February 9, 2024, the day on which the parties and Court had contemplated for the

¹ The government has also disclosed Keith Rosenn, Esq., as an expert on the law of Ecuador. See ECF Dkt. No. 207-1 (expert report of Keith Rosenn). The government understands that the defendant does not dispute relevant Ecuadorian law and therefore the government does not anticipate calling Mr. Rosenn.

hearing. Cross-examination through an interpreter on a video conference will be cumbersome and prejudice the government.

Respectfully submitted,

BREON PEACE United States Attorney

By: /s/

Jonathan P. Lax Matthew Galeotti Assistant U.S. Attorneys (718) 254-6139

GLENN S. LEON Chief, Fraud Section Criminal Division, U.S. Dept. of Justice

By: /s/

Derek J. Ettinger Assistant Chiefs, FCPA Unit Clayton P. Solomon

Trial Attorney, FCPA Unit

MARGARET A. MOESER
Acting Chief, Money Laundering & Asset
Recovery Section

Criminal Division, U.S. Dept. of Justice

By: /s/

D. Hunter Smith
Trial Attorney, International Unit

Enclosure

cc: Counsel of Record (by ECF)